

## Chapter 5

# Consolidation of Legal Documents in an Electronic Format

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## 1. Introduction

Communication shapes legal practices and therefore the implementation into them information and communication technologies (ICT) influences also the way in which law is drafted and promulgated. It leads not only to automation of search and analysis of legal documents, but it opens up as well new ways to manage, visualize and share legal information, and gives new possibilities of work flow control during the legislative process.

Although the implementation of ICT into the legislative process increases its effectiveness, it makes it also dependant on the technological standards used by legislators and their interoperability. Moreover, it entails adjustment of legislative practices to both the requirements and the potential of the new technologies. This is because the informatization of the legislative process involves the development of new tools, which are necessary for making and publishing legal documents in an electronic format, i.e. dedicated editors to tag the texts of legal acts in XML, converters enabling conversion of documents stored in one format to another format, XML Databases to store tagged documents, to manage and verify various versions of legal documents, work flow management platforms for legislative or parliamentary activities and URI/Link resolvers for connection to resources of various lawmaking authorizes.

One of the major changes resulting from the developments and implementation of ICT into legislative processes is the appearance of new ways

in which legal documents can be promulgated and consolidated. This is of particular importance in countries like Poland, where legal acts are already promulgated in electronic format, and where in the promulgation of consolidated versions of legal documents one sees a remedy for the information crisis in law.<sup>1</sup>

The consolidation of legal documents is a complex process, usually strictly regulated by law. As a consequence, the way in which legal documents are consolidated can determine the legal status of the consolidated information. For example, while texts consolidated by authorized agents can have official status of the authentic source of law, texts consolidated in a different manner may lack this quality.<sup>2</sup> This situation raises a number of question concerning the status and functions of consolidated legal documents. The fundamental one is, however, whether the more frequent promulgation of authentic consolidated versions of legal texts is able to deal with the reduced clarity of legal texts arising from their numerous and extensive changes and novelizations. Any answer to this question requires one to consider both the nature of regulation concerning legal status of electronic legal documents and the conditions of the informativeness of legal texts. Respectively the following paper discusses selected examples of regulations concerning legal documents in an electronic format and analyses an impact the automatic consolidation of legal documents can have on informativeness of legal texts.

## 2. Legal status of electronic legal documents. Some European examples

Although the recommendation to use a uniform system to create and make available electronic legal acts was formulated in the Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 (Official Journal L 345 of 31 December 2003) on the re-use of public sector information, the development of such systems, however, began in EU countries much earlier. The pioneer of this kind of technology was the Italian Supreme Cassation Court. The system called *Centro di Documentazione Elettronico* – CED, created for this institution, was available for a limited number of courts already at the beginning of the 1970's. Since the early 1980's, more and more documents have been collected in the CED system and the very system became finally available not only for public administration, but also for other

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<sup>1</sup> About the information crisis in law see more: F. Studnicki, *Wstęp do informatyki prawniczej* (Introduction to Legal Informatics), Warszawa 1978, p. 16.

<sup>2</sup> The presumption of the authenticity of the legal text, only results in the fact that the legislator shall be liable for the errors contained herein, not the entity that is guided by an erroneous text.

groups of users.<sup>3</sup> Italy is also one of the first European countries which began to make its official journals available on the Internet. These journals have been made available in the official electronic journal GURITEL by Istituto Poligrafico e Zecca dello Stato since 1987, however the documents published on this website did not have the status of an authentic text.<sup>4</sup> In 1999, the Italian Minister of Justice launched a new project for a public legal information system called *Norme in Rete* (norms on the Net), which, among others, led to the development of an outline of the XML document structure of a legal act in the DTD form. This format was published by the governmental agency AIPA (Agenzia per l'Informatica nella pubblica amministrazione) in 2002 and became the standard for recording of legal acts. The guidelines for the outline developed were determined in the Regulation of the President of the Italian Council of Ministers of 20 April 2001 on the principles and recommendations for the technical construction of legal texts *Regole e raccomandazioni formulazione per la tecnica dei testi legislativi*.<sup>5</sup> The standards developed for the *Norme in rete* system made it possible to share the provisions of Italian law on the NORMATTIVA portal, which is the first free Italian public database containing updated, real-time information about applicable law. Still, however, they did not obtain the status of authentic information,<sup>6</sup> which is reserved only for legal texts published both in print and electronic form in *La Gazzetta Ufficiale Italiana*.

Another pioneer in the development of public legal information systems is Austria, which has been developing its own electronic legal information system called *Rechtsinformationssystem des Bundes* (RIS) since 1983. Initially it covered only federal law, then the Supreme Court judiciary and now also includes information among others on state (Länder) law, union communities (Gemeinderecht), EU law, court judiciary and decrees of federal ministries. It should be underlined, however, that not all of the information available on RIS has the status of authentic information. This status is granted only to the texts of legal acts issued after 2004 in the Federal Law Gazette. In other cases only legal texts available in print in the federal, state or other promulgation journals are regarded as authentic versions. It should also be noted that the project called *E-Recht* was launched by the decision of the Federal Government of Austria already in 2001, and whose goal was to cre-

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<sup>3</sup> G. Peruginelli, *Legal Information on the Web: the Case of Italy*, International Journal of Legal Information, 2006, Vol. 34, Iss. 2, Article 11.

<sup>4</sup> A. Andriani, *The Role of the Official Gazette in the Italian experience of collecting and publishing (European, national and local) norms*, European Legal e-Access conference, 2008, <http://www.legalaccess.eu/?La-place-du-Journal-officiel-dans&lang=en#> (accessed 08.10.2012).

<sup>5</sup> *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi*, Gazzetta Ufficiale, No. 97, April 27, 2001.

<sup>6</sup> <http://www.normattiva.it/static/legal.html> (accessed 16.05.2013).

ate a coherent system involving all of the legislative process – from the draft legislation, through its commenting, to its publication in the RIS system. As a result, popular templates for Microsoft Word text editor were created, allowing for the preparation of the contents of legal acts and their further improvement. The texts which were prepared in this way can then be converted to an XML format and electronically signed using a special network module MOA (*Module für Online Applikationen*), and after approval listed in the RIS<sup>7</sup> database. Thanks to this solution, Austria has decided not to issue the printed version of the Federal Official Gazette since the 1<sup>st</sup> January 2004.

Also the institutions of the European Union relatively quickly began to build a system including a database of legislation of common European law. The staff of the European Commission since 1967 can benefit from the French CELEX system (*Communitatis europeae Lex*), containing treaties, international agreements, secondary legislation, supplementary legislation, documents of the legislative process, the Court of Justice and the Court of First Instance judicature, the national implementation of directives, interpellations and parliamentary questions submitted to the European Parliament, as well as the EFTA documents. This system was made available to the public in 1981 thanks to magnetic tapes, and in 1992 its administration was transferred to the Publications' Office.<sup>8</sup> In 1998, for the publication of the Official Journal of the European Union (until 2003 the Official Journal of the European Communities), an internet system EUR-LEX was launched; the CELEX database was incorporated into it in 2004. Until 2011, however, there was no regulation on the authenticity of the journals published in the EUR-LEX, and the judgment of the Court of Justice of the European Union on the Skoma-Lux company against the Customs Office in Olomouc, confirmed that "such a way to communicate legislation to the public is not tantamount to a valid publication in the Official Journal of the European Union".<sup>9</sup> On 7<sup>th</sup> March 2013, the Council of the European Union issued a regulation on the electronic publication of the Official Journal of the European Union (Council Regulation (EU) No 216/2013, which entered into force on 1<sup>st</sup> July 2013). In accordance with article 1, paragraph 2 of this Regulation, official Journal of the European Union published in electronic form is authentic and has legal consequences.

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<sup>7</sup> B. Barotanyi, *e-Recht – Law Making in a Contemporary Way*, Gazette, 2007, Vol. 1(2), p. 355–360.

<sup>8</sup> *Interinstitutional Style Guide*, <http://publications.europa.eu/code/pl/pl-10100.htm> (accessed 12.10.2012).

<sup>9</sup> Judgement of 11 December 2007 on the case C-161/06, *Skoma-Lux sro przeciwko Celní ředitelství Olomouc* (Zb.Orz. 2007, p. I-10841), for: Proposal for a Council Regulation on electronic publication of the Official Journal of the European Union 2011/007(APP).

Finally, it is worth mentioning that in many countries today official journals are published only in electronic form via the Internet. This means that legal documents in electronic format have the status of authentic texts. Currently, these countries (apart from Poland) include among others Belgium, Denmark, Spain, the Netherlands, Portugal and Hungary. Most often, however, the status of an authentic text is given both to electronic and printed versions, as is the case for example of Estonia, France, Romania, Great Britain, Italy and Lithuania.<sup>10</sup>

### 3. Legal status of electronic legal documents in Poland

The main legal act regulating the issues of an electronic version of the legal texts in Poland is the act of February 17, 2005 on the computerization of activity of entities performing public tasks. The act established, among others, the rules for determining the minimum requirements for systems used for the development, exchange and storage of information in electronic form, and created a framework for the development of solutions for the software that allows to connect and exchange information, including sending electronic documents between ITC systems of public entities and systems of entities that are not public entities. The act also determines the principles for the functioning of an electronic platform for public administration services and the central repository of specimen letters in the form of electronic documents.

From the perspective of deliberations on the consolidated text, it is important to note that article 3 of the above act introduces a legal definitions of an electronic document (§2) and a computer data carrier (§3). Accordingly an electronic document constitutes an individual semantic set of data arranged in a specific internal structure and stored on a data carrier understood as a material or a device for recording, storing and reading data in a digital form. Regretfully the abovementioned definition of an electronic document can lead to serious misunderstandings. This is so because, contrary to what is suggested, the data themselves do not mean anything. The data is significant information only through the use of an interpretation algorithm. One can then easily speak of a separate set of data arranged in a certain way, but saying that such a set is a separate semantic entity raises a number of doubts, particularly when one considers texts of legal documents.<sup>11</sup> The issue of the

<sup>10</sup> Based on: *Government Legal Services of Liechtenstein*, Online publication of legal journals in Europe (EU/EFTA), [http://circa.europa.eu/irc/opoce/ojff/info/data/prod/data/pdf/Authentic\\_electronic\\_publication-EU-EFTA-20111101.pdf](http://circa.europa.eu/irc/opoce/ojff/info/data/prod/data/pdf/Authentic_electronic_publication-EU-EFTA-20111101.pdf) (accessed 12.10.2012).

<sup>11</sup> See W. Cyrul, *Lawmaking: Between Discourse and Legal Text*, in: *Legislation in Context: Essays in Legisprudence*, L. Wintgens (ed.), Hampshire 2007, p. 43–55.

semantic completeness (autonomy) of the text in general and the legal text or the text of a legal act in particular, goes beyond the scope of this study. Nevertheless, it must be remembered that this problem is much disputed both in the science of text,<sup>12</sup> as well as the theory of law.<sup>13</sup>

From the perspective of the status of consolidation of legal documents in Poland, also article 42 of the aforementioned act is of significant importance, since it changed the act of July 20, 2000 on the publication of normative acts and other legal acts. As a result, first a dual system of the promulgation and storage of legal acts was introduced in Poland, and then (with the force into entry of the act of March 4, 2011 amending again the act on publication of normative acts and other legal acts), it was decided that since January 1, 2012, the legal texts should be published, stored and made available in Poland exclusively in electronic form. In the paper version only certified printouts of the official journals are currently stored. The status of the original text is given however to electronic documents. The force into entry of the act of March 4, 2011 meant that Poland joined the group of member states of the European Union who had resigned from the official paper version of the official journals.<sup>14</sup>

The subject of detailed legal regulations in Poland have also become issues of technical requirements that must be met by the electronic documents containing legal texts. This issue was primarily regulated by the Regulation of the Minister of Internal Affairs and Administration of April 25, 2008 on the technical requirements of electronic documents containing normative acts and other acts, electronic form of official journals and electronic means of communication and information data carriers,<sup>15</sup> and later amended by the regulations of the Minister of Internal Affairs and Administration of June 27, 2008<sup>16</sup> and of December 23, 2008.<sup>17</sup> This issue is currently governed by the Regulation of the Prime Minister of December 27, 2011 on the technical requirements for electronic documents containing legal acts and other normative acts of official journals published in electronic form and electronic means of communication and information data carriers.<sup>18</sup> Under this regulation, legal acts are saved as a structured text in the form of a universal text format

<sup>12</sup> See W. Kalaga, *Mgławice dyskursu* (Nebulae of discourse), Kraków 2001, p. 209.

<sup>13</sup> See W. Cyrul, *Wpływ procesów komunikacyjnych na praktykę tworzenia i stosowania prawa* (Influence of communication processes on the practice of making and applying the law), Warszawa 2012, p. 98 ff.

<sup>14</sup> See *Access to Legislation in Europe, Guide to the legal gazettes and other official information sources in the European Union and the European Free Trade Association*, Publication Office of the European Union, Luxembourg, p. 229.

<sup>15</sup> Dz.U. 2008, no. 75, item 451.

<sup>16</sup> Dz.U. 2008, no. 113, item 722.

<sup>17</sup> Dz.U. 2008, no. 232, item 1568.

<sup>18</sup> Dz.U. 2011, no. 289, item 1699.

to record data in electronic XML form, determined by the W3C standard (World Wide Web Consortium). They are made available in PDF format and electronic documents containing their content are marked with a secure digital signature of the entity authorized to adopt the legal act.

According to the current wording of Annex 3 to the Regulation of December 27, 2011, the content of the structured text of a legal act should include: (1) the structure of the legal act, and thus enable the division into parts, books, titles, chapters, sections, divisions, articles, paragraphs, sections, letters and indents; (2) the text of various parts in the act; (3) the titles of the various parts in the act; (4) footnotes with references; (5) comments on the content placed directly in the text or in the margin; (6) external components included in the content (images, tables, etc. stored in separate documents); (7) annexes to legal acts; (8) references to other legal acts; (9) labels for definitions of dictionary terms. With this in mind, and taking into account the fact that the regulation governs the requirements for data formats and means of electronic communication, an automatic consolidation of legal documents should not pose any technical problems if correct, uniform standards existed and would be properly implemented in the legislative process. Potential difficulties can arise only from the fact that the current regulation does not specify a particular XML schema which would define the structures of XML files containing the texts of legal acts.<sup>19</sup> It only requires that the structures are in accordance with the provisions of the Regulation of the Prime Minister of June 20, 2002 on “The principles of legal drafting”.<sup>20</sup> As a result, the definitions of the XML document structure in the form of an XML Schema (XSD), are being developed as part of an electronic platform for public services (ePUAP).<sup>21</sup> Although they do not have legal status the state of their development and technical standards adopted by the legislator enable already today a semi-automatic generation of consolidated versions of legal documents in a way that ensures their integrity and security.

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<sup>19</sup> Previously, these schemes were contained in Annex 4 of the Regulation of the Minister of Internal Affairs and Administration of 25 April 2008 on the technical requirements for electronic documents containing normative acts and other acts, electronic form of official journals and electronic means of communication and information data carriers (Dz.U. 2008, no. 75, item 451). The annex was, however, repealed by the Decree of the Ministry of Internal Affairs and Administration of 23 December 2008 (Dz.U. 2008, no. 232, item 1568).

<sup>20</sup> Dz.U. 2002, no. 100, item 908.

<sup>21</sup> <http://www.epuap.gov.pl> (accessed 25.06.2013).

## 4. Consolidated version of legal documents and text's informativeness

While analyzing the status and function of consolidated legal acts, one should consider how the law is made available, a prerequisite for gaining access to legal information and which determines the degree of informativeness of the legal text from the perspective of the user. Based on the detailed analysis of these issues it will be possible to discuss the legitimacy of inclusion in the corpus of the legal text in electronic format of information allowing not only for presenting the exact meaning of the existing regulations, but also for the reconstruction of the normative level of the text, taking into account the normative status of particular regulation.

One of the main functions of consolidated texts is to reflect the legal status in effect at the time. In other words, the informativeness<sup>22</sup> of the consolidated text depends on its ability to provide the reader with information about what the content of a specific legal act is at the moment. The informativeness of the consolidated text depends not only on the content of regulations included in it and its arrangement, but also on the form of its provision.

While discussing the issue of informativeness and the accessibility of law, it is difficult to ignore the fact that one of the specific characteristics of legal texts is their dynamic nature. This is due to the fact that the legal texts are frequently subject to change resulting from the amendment of the provisions contained therein. As a result, in order to reduce the level of uncertainty associated with the dynamic nature of legal texts, traditionally, from time to time competent authorities publish consolidated texts of legal acts to integrate further revisions and amendments into one coherent document. Unfortunately, technological limitations related to printing had by then meant that the creation of a consolidated text was quite a complicated and costly process and thus consolidated texts were rarely issued. There were however more important side effects of promulgating consolidated versions of legal text in print. The traditional way of publication of consolidated texts meant that people who had no expertise how to read it could easily make a mistake. The existence of a consolidated version of the legal text made many non-lawyer readers to act in the belief that it contains the entire regulation, while consolidated texts show only the state of the regulation as of a particular day. Another problem which may be experienced in practice are situations in which people use the consolidated text, forgetting that it is necessary to familiarize themselves with the content of the announcement, which the unified text is enclosed to and which also contains important information. One should

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<sup>22</sup> G. Wierczyński, *Editing and promulgation of normative acts. Commentary*, Warszawa 2010, p. 561.



in particular mention here the information on legal acts, which regulations have in an explicit or formal way introduced amendments to the act which consolidated text is published, information about the verdicts of the Constitutional Tribunal and information on the regulations of the act, which are not included within the consolidated text.

Clearly, the traditional form of the creation and publication of consolidated texts requires particular competence from the reader to use them. Thus it may be argued that the informativeness of a consolidated text determines its intentional effectiveness. As a result, the consolidated text must include not only information which is new to the recipient, but also all of the information which is necessary to ensure that the message can be correctly understood and used. In practice, this means that the amount and type of information which must be included in the consolidated text so that it can meet their basic communication functions as much as possible, depends not only on the legislature, but also on the recipient of text. The presentation of the consolidated text must therefore be adapted to the user's knowledge. A lack or excess of available information may reduce the intentional effectiveness of law. In particular, the lack of specific information may prevent proper understanding and evaluation of the information contained in the text of a consolidated legal act, and the redundancy of the provided information can lead to doubts with regards to its interpretation.

The electronic format allows one to consider the problem of the informativeness of a legal text, in particular the consolidated text, from another perspective. In contrast to the printed text, one in electronic form allows for both the use of tools for the analysis of long texts, taking into account their full complexity,<sup>23</sup> and adjust the amount and type of information displayed on the screen to the user's needs. The electronic format of the text allows for the managing of information in a manner that eliminates information which the user deems irrelevant or the generation and sharing of information of a specific type, for certain classes of users. The electronic form of the text also allows for the use of various search engines or intelligent agents which help users when searching for specific information. As a result of switching to an electronic format, the legislator, to the extent that it does not compromise the integrity of the legal texts, should try to provide information on the law in a way that the recipient can easily find what (s)he is looking for. This in turn is associated with the issues of information management methods, the ergonomics of the interface and the manner of the presentation of information.

The problem of the informativeness of legal texts is of particular importance due to their special status and communication purpose. The informa-

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<sup>23</sup> M.R. Susskind, *The Future of Law. Facing the Challenges of Information Technology*, Oxford 1996, p. 107 ff.

tiveness of legal texts determines, on one hand, the possibility of enforcement of the basic functions of law, on the other hand, however, is dependent on the degree of saturation of the members of the community with the information about the law as Studnicki<sup>24</sup> has already highlighted. Therefore, discussing the scope of information that should be disclosed in a consolidated text of a legal act one should first distinguish between the informativeness of the law in an absolute sense and in a relative sense. In an absolute sense, the informativeness of the law is associated with the issues of its normative completeness, so the issue of regulation completeness. In other words, the legal text is informative in the absolute sense as long, as there are no gaps. Any factual legal information gap reduces the degree of informativeness of the legal text. However, in a relative sense, the informativeness of the legal text is its ability to provide different recipients with the information they need to perform their roles or to carry out their business. One may easily note that the institution of the consolidated text, just as the internal and external arrangement of information in the texts of normative acts, is associated with informativeness of the law in a relative sense. It should be also noted that in the case of the printed forms of legal texts the improvement in informativeness in an absolute sense does not have to automatically improve the informativeness of a legal text right in a relative sense, and vice versa. The excessive casuistry of regulations can reduce the degree of user's accessibility to information, and in turn any attempts to save and organize legal information, so as to enhance its accessibility can result in redundant information in legal texts or in eligibility and interpretation issues.

Based on the foregoing discussion, it is easy to observe that the concept of the informativeness of a consolidated text cannot be identified with the concept of normative completeness. No text of a legal act beyond the legal system is normatively complete. Therefore, when discussing the scope of the disclosed information in a consolidated text, one should focus on the question of relative informativeness. Undoubtedly, a prerequisite for the implementation of this function is that the content of a consolidated text which is made available to the recipient includes all of the elements constituting its integral part. Further information, which does not constitute the corpus of consolidated legal text, but only affects its meaning, should be displayed/made available only if the recipient of the text desires. Excess information of this type, permanently linked to the consolidated text and always displayed to all users with the same text of the legal act, not only leads to serious doubts as to the type of presented information, but also as to why these and not other information, is presented and reduces the readability of the consolidated text. Given the technological opportunities resulting from electronic data recording

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<sup>24</sup> F. Studnicki, *Wstęp do informatyki prawniczej...*, p. 14 ff.

and the sharing of legal texts it seems wiser to allow the user to decide what information (s)he wishes to display at the moment. The legislator should only allow him/her to obtain easy access to the information, tools and technology that will raise the efficiency of the recipient's actions. One such solution might be to share the consolidated legal texts online at any date selected by the recipient with the status of authenticity or the possibility to display the verdicts of the Constitutional Tribunal regarding specific regulations. Moreover, solutions of this type, provide a user with up-to-date information on the law, have been known for a long time. Since the 1990's there have been systems which provide not only consolidated versions of legal acts, but also allow for the management of versions of the texts. One of the first systems of this type are ENACT,<sup>25</sup> AustLII,<sup>26</sup> Lovdata,<sup>27</sup> Legifrance,<sup>28</sup> RIS,<sup>29</sup> EUR-Lex<sup>30</sup> or Polish ISAP.<sup>31</sup> However, automatically or semi-automatically generated consolidated versions of legal act made available by these systems do not have the official status of authentic legal texts.

## 5. Automatic consolidation of legal documents

From a technological perspective, the problem of uniformity of legal texts is related to the issue of their integrity. After all, the consolidated text of a legal act is not only a legal institution, but also a special form of the presentation of legal information. It is a special form in the sense that it has the status of authenticity, just as the text of the original act. As a result, both in case of the consolidated text and the original text, there is a presumption that the form in which it was announced was shaped by the legislator.<sup>32</sup> So in both cases sharing of these texts in electronic format is related not only to the problem of the authenticity of the shared information, but also in terms of its integrity. The authenticity of the legal text will be preserved if the recipient has access to the

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<sup>25</sup> Enact is a legislation system used in Tasmania, which allows for the automatic consolidation of legal acts immediately after its entry into force. The technology is based on the database developed by the Royal Melbourne Institute of Technology *Tera Text Database System*. [www.thelaw.tas.gov.au/about/enact.w3p](http://www.thelaw.tas.gov.au/about/enact.w3p) (accessed 25.06.2013).

<sup>26</sup> [www.austlii.edu.au](http://www.austlii.edu.au) (accessed 25.06.2013).

<sup>27</sup> [www.lovdata.no/](http://www.lovdata.no/), Norwegian legal information system (accessed 25.06.2013).

<sup>28</sup> [www.legifrance.gouv.fr/](http://www.legifrance.gouv.fr/), French legal government bulletin (accessed 25.06.2013).

<sup>29</sup> *Rechtsinformationssystem*, Austrian legal government bulletin, [www.ris.bka.gv.at/defaultEn.aspx](http://www.ris.bka.gv.at/defaultEn.aspx) (accessed 25.06.2013).

<sup>30</sup> [www.eur-lex.europa.eu/pl/index.htm](http://www.eur-lex.europa.eu/pl/index.htm), system of legal acts of the European Union (accessed 25.06.2013).

<sup>31</sup> [www.isap.sejm.gov.pl](http://www.isap.sejm.gov.pl) (accessed 25.06.2013).

<sup>32</sup> S. Wronkowska, M. Zieliński, *Commentary on the principles of legal drafting of 20 June 2002*, Warszawa 2012, p. 206.

content which has actually been prepared and made available by the legislator. The authenticity and integrity of the legal text in the format of an electronic document is ensured and only if it is impossible to introduce modifications to the text by an unauthorized person or in way which would not be in agreement with applicable legal procedures.<sup>33</sup> It is important to note that, in contrast to the original text, the consolidated text of the act is merely declaratory.<sup>34</sup> This means that, unlike in the case of the original legal text, whose main communicative objective is authoritative regulation, the consolidated text is to inform readers about the current state of legal regulation. The difference in the communicative function for both types of legal texts is reflected in the rules for the establishment and functioning of these both forms of presentation of the act. It should be remembered that the original text of the act as a result of the amendments or verdicts of the Constitutional Tribunal is fragmented and dispersed, i.e. formally isolated parts of its structure can be found in the texts of the various legislative or other types of legal acts.<sup>35</sup> The promulgation of the consolidated text is merely a way to counteract the negative effects of this process.

Taking into account the previous deliberations, we can see that the use of electronic forms of legal texts requires the construction of electronic legal information systems capable of the automation process of managing changes in the base of legal information. The quality of action of such systems depends not only on the technology used to allow the system to process different types of information contained in the database with regards to its meaning, but also on the functioning of the system itself. The latter is determined by the ability of the machine to generate valid and reliable results, taking into account both the needs of any user of the system, as well as current and potential events that generate changes in the legal texts. Given the importance of these issues below is a brief description of the basic legislative principles thus determining the efficiency of the automated systems of change management in legal texts.<sup>36</sup>

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<sup>33</sup> This issue is directly related to the issues of data security which, however, due to the aim of this study is beyond its scope. To obtain more information on this subject please refer to J. Stokłosa, T. Bilski, T. Pankowski, *Security of data in information systems*, Warszawa–Poznań 2001.

<sup>34</sup> Preparation of the consolidated text is a purely editorial procedure. Beyond the scope of this process are issues that require validation or decisions concerning the validity, scope or content of consolidated texts of the existing legal regulations. Compare to M. Błachut, W. Gromski, J. Kaczor, *Legislative technique*, Warszawa 2008, p. 118 ff.

<sup>35</sup> S. Wronkowska and M. Zieliński even speak of a “virtual” nature of these changes. As rightly pointed out, introduction of changes to a legal text does not consist in automatic introduction of changes in the original text, but in the addition to the collection of the texts of new legal texts containing amending them provisions. Cf. S. Wronkowska, M. Zieliński, *Commentary on the principles of legal drafting of 20 June 2002*, p. 206.

<sup>36</sup> Cf. M. Palmirani, *Legislative Change Management with Akoma-Ntoso*, in: G. Sartor, M. Palmirani, E. Francesconi, M.A. Biasiotti (eds.), *Legislative XML for the Semantic Web. Principles, Models, Standards for Document Management*, Dordrecht 2011, p. 105 ff.

The construction of a consolidated version of the legal text requires proper consideration of the time sequence system of the introduced changes (*the principle of temporal sequencing*). At the same time in the practice of legislation one has to deal with the retroactive or editorial revisions of the regulations which are already in force. Therefore, the system must also be able to recognize and appropriate consideration of such events, in a way that ensures the continuity of the process of consolidation, in accordance with the chronology of changes (*principle of continuity*).<sup>37</sup>

Bearing in mind the needs of entities making validation decisions in the process of law enforcement, consolidated legal texts automatically generated by the system should provide the user with the information of all modifications that have been included in them in a transparent way (*the principle of transparency and traceability*). What is more, both documents containing consolidated texts, as well as documents containing texts or provisions of the acts that have been repealed or revised, should contain accurate information about provisions amending it or repealing (*the principle of self-closing*). This makes it possible to verify if the texts contain the current version of these regulations for the particular period of time and if particular regulations are properly numbered and organized into higher-order editorial units. This solution also allows for finding regulations that modify the particular text and to determine its earlier versions. Moreover, taking into account the above-mentioned sources of changes in the legal text, one can also determine whether electronic documents containing consolidated texts include changes introduced into the legal text, e.g. as a result of the decision of the Constitutional Tribunal. Another important principle is that of distinguishing the level of the content of the legal text and meta data describing the text (*the principle of distinguishing levels*). As a consequence, when the same event causes several changes to the document, all of them, if the need arises, will be properly classified and described both in a document containing the modified text, as well as in the modifying document. A similar situation applies to the distinguishing of the presentation layer of the document, which defines the form and style, in which the legal texts are published from the content layer of the document (*the principle of separating the presentation layer from the content of the document*).

The usability of the system of change management in the text of law depends largely on the level of the detailed specificity of the marked items. In fact, the system should identify each separate item included in the text of the law, and not just articles or sections, but also smaller editorial units, such as paragraphs, letters, indents, etc. (*the principle of granularity*). This makes it possible to achieve greater accuracy in data processing. At the same time,

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<sup>37</sup> M. Palmirani, *Legislative Change Management with Akoma-Ntoso...*, p. 107.

the database of legal texts which manages the system should be complete, i.e. it should include all legal texts, described in markup languages, to allow the system for their adequate processing (*the principle of completeness*). It is a condition whose realization determines the ability to create consolidated versions of the texts, including any changes made by the legislator in the *system of sources of law*.

The text of the law is an extremely complex and dynamic network. As a result, a change in any of the items may interact with other items in the database. Therefore, to maintain the integrity of the whole system, it is necessary to create a mechanism for controlling the process of consolidation. The system, while creating a consolidated version, must take into account the entire network of formal relationships, which characterize consolidated texts by detecting anomalies in the relationships between the elements in the database, i.e. retroactive legislation, regulations entering into force later than the whole text of the act, in which they are contained or secondary legislation that is legally effective, despite the fact of repealing of legal force under which they were issued.

The last principle, which is worth mentioning, is *the principle of technological neutrality of standards used to build the system*. Technological neutrality in this context is to guarantee the ability to process data sets contained in the database in a way that shall be independent from the available technology, as a computing platform. Taking into consideration the stability of the legal system, automated change management system must be able to expand in accordance with the future needs of its potential users. As a result, the principles of its functioning must be sufficiently clear to allow for its future operation and development. Moreover, taking into account the needs of different groups of users, the system should provide access to data using any equipment that meets certain strictly defined and explicit terms.

## 6. Conclusions

While the promulgation of consolidated texts in the period of official journals which were published in print form undoubtedly facilitated the application of law, in the digital realm it will only increase the redundancy of legal information and may lead to completely unnecessary problems. Taking into consideration the fact that legal texts are currently prepared, stored and communicated in the form of electronic documents, the implementation of solutions discussed above makes it possible to retain the maximum consistency of information in the database of legal texts. Moreover, at the same time it allows for presentation of consolidated legal texts as of every moment, to each recipient, at any time, with the use of any device connected to the internet. The com-

puterization of law allowed a clear distinction between the level of recording information and the level of information presentation.<sup>38</sup> As a result, it became technically possible to automatically generate and share a consolidated version of the legal text on the day selected by the user. The legal status of information which has been generated in such a way is, from the technical point of view, a secondary issue, because it is possible to present electronic documents containing legal texts in the form of a consolidated text, without having to create a separate electronic document with a consolidated text. Hence, there is no impediment to granting authenticity status to such a form of presentation provided, of course, that such consolidation will be done by a dedicated state system. Nevertheless, at least two conditions must be fulfilled, so that the system can be effective. First, electronic promulgation journals must be structured in such a way that allows for automation of the searching and management of information contained in them. Second, legal texts issued by all authorities which are entitled to do so must be created in accordance with the defined format of an electronic document, which not only enables unambiguous identification, accessibility on the Internet and the appropriate visualization, but also ensure that different computer systems exchanging information with each other will be able to properly interpret them.<sup>39</sup>

The operation of such a system through the use of information technology also allows for the viewing of the contents of electronic documents and additional information, influencing their normative level, without the need for the “physical” inclusion of such information in the content of these documents. This data can be made available in such a format to recipients through, for example, links. Thus it would be possible to increase the informativeness of texts which are made available to recipients with no violation of the integrity of the documents containing the legal text.

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<sup>38</sup> To obtain more information please refer to W. Cyrul, J. Duda, J. Opila, T. Pelech-Pili-chowski, *Management of legal information in legal texts using markup languages*, in: P. Lebkowski (ed.), *Aspects of production engineering*, Kraków 2010, p. 65–95.

<sup>39</sup> See M. Tabor, *Standardization of electronic documents produced by public entities*, Electronic Administration, 2007, No. 5, p. 43 ff, [www.cyfrowyurząd.pl](http://www.cyfrowyurząd.pl) (accessed 25.11.2013).